

STATEMENT OF EMERGENCY

907 KAR 20:005E

(1) This is an emergency administrative regulation which establishes that the Medicaid technical eligibility requirements in this administrative regulation do not apply to individuals for whom a modified adjusted gross income or MAGI is the Medicaid eligibility standard or to former foster care individuals between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid coverage. The Affordable Care Act mandates the use of a modified adjusted gross income standard for eligibility determinations purposes for certain categories of individuals (effective January 1, 2014) and bars the application of certain existing eligibility technical requirements from being applied to the MAGI population. Additionally, the Affordable Care Act mandates a new eligibility category comprised of the aforementioned former foster care individuals and likewise bars the application of certain existing eligibility technical requirements to those individuals. As Medicaid coverage under the MAGI standards is mandatory January 1, 2014 and eligibility determinations can begin October 1, 2013, this administrative regulation is necessary to be implemented on an emergency basis.

(2) This action must be implemented on an emergency basis to comply with a federal mandate.

(3) This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

(4) The ordinary administrative regulation is identical to this emergency administrative regulation.

Steven L. Beshear
Governor

Audrey Tayse Haynes, Secretary
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (Emergency Amendment)

5 907 KAR 20:005E[907 KAR 4:014]. Medicaid technical eligibility requirements not re-
6 lated to a modified adjusted gross income standard or former foster care individuals.

7 RELATES TO: KRS 205.520, 205.6481-205.6497, 341.360, 42 C.F.R. 435, 403, 45
8 C.F.R. 233.100, 8 U.S.C. 1101, 1153(a)(7), 1157, 1158, 1182(d)(5), 1231(b)(3),
9 1253(h), 1522, 1612, 1613, 1622, 1641, 38 U.S.C. 101, 107, 1101, 1301, 1304, 5303A,
10 42 U.S.C. 402, 416, 423, 1382c, 1383c, 1395i, 1396a

11 STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1),
12 205.520(3), 42 U.S.C. 1396a(a)(10), (r)(2), 1396b(f), 1396d(q)(2)(B), 1397aa

13 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
14 Services, Department for Medicaid Services has responsibility to administer the Medi-
15 caid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to
16 comply with any requirement that may be imposed or opportunity presented by federal
17 law to qualify for federal Medicaid funds~~[for the provision of medical assistance to Ken-~~
18 ~~tucky's indigent citizenry]~~. This administrative regulation establishes the technical eligi-
19 bility requirements of the Medicaid program except for individuals whose Medicaid eligi-
20 bility standard is a modified adjusted gross income or for former foster care individuals
21 between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while

receiving Medicaid coverage . Individuals to whom the technical eligibility requirements in this administrative regulation apply include children in foster care; aged, blind, or disabled individuals; and individuals who receive supplemental security income benefits.

Section 1. [Definitions. (1) "Cabinet" is defined by KRS 218A.010(3).

(2) "Child" means a person who:

(a) 1.a. Is under the age of eighteen (18); or

b. Is under age nineteen (19) if the person is:

(i) A full-time student in a secondary school or the equivalent level of vocational or technical training; and

(ii) Expected to complete the program before age nineteen (19);

2. Is not self-supporting;

3. Is not a member of the Armed Forces of the United States; and

4. If previously emancipated by marriage, has returned to the home of his parents, or to the home of another relative; or

(b) Has not attained nineteen (19) years of age as specified in 42 U.S.C. 1396a(l)(1).

(3) "Evidence of identity" means:

(a) A current state driver's license or state identity document bearing the individual's picture;

(b) A certificate of Indian Blood or other United States American Indian or Alaska Native tribal document; or

(c) For a child who is age sixteen (16) or younger:

1. A school identification card with a photograph;

2. A military dependent's identification card, if it contains a photograph;

1 ~~3. A school record that shows the:~~
2 ~~a. Date and place of birth; and~~
3 ~~b. Parent or parents' name;~~
4 ~~4. A clinic, doctor, or hospital record showing date of birth;~~
5 ~~5. A daycare or nursery school record showing date and place of birth; or~~
6 ~~6. An affidavit signed under penalty of perjury by a parent or guardian attesting to the~~
7 ~~child's identity.~~
8 ~~(4) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's ver-~~
9 ~~sion of the federal block grant program of Temporary Assistance for Needy Families~~
10 ~~(TANF), a money payment program for children who are deprived of parental support or~~
11 ~~care due to:~~
12 ~~(a) Death;~~
13 ~~(b) Continued voluntary or involuntary absence;~~
14 ~~(c) Physical or mental incapacity of one (1) parent or step-parent if two (2) parents~~
15 ~~are in the home; or~~
16 ~~(d) Unemployment of one (1) parent if both parents are in the home.~~
17 ~~(5) "Medicaid works individual" means an individual who:~~
18 ~~(a) But for earning in excess of the income limit established under 42 U.S.C.~~
19 ~~1396d(q)(2)(B), would be considered to be receiving supplemental security income;~~
20 ~~(b) Is at least sixteen (16), but less than sixty-five (65), years of age;~~
21 ~~(c) Is engaged in active employment verifiable with:~~
22 ~~1. Paycheck stubs;~~
23 ~~2. Tax returns;~~

~~3. 1099 forms; or~~

~~4. Proof of quarterly estimated tax;~~

~~(d) Meets the income standards established in 907 KAR 1:640; and~~

~~(e) Meets the resource standards established in 907 KAR 1:645.~~

~~(6) "Minor teenage parent" means an individual who:~~

~~(a) Has not attained eighteen (18) years of age;~~

~~(b) Is not married; and~~

~~(c) Has a minor child in his care.~~

~~(7) "Satisfactory documentary evidence of citizenship or nationality" means:~~

~~(a) A United States passport;~~

~~(b) A Certificate of Naturalization (DHS Form N-550 or N-570);~~

~~(c) A Certificate of United States Citizenship (DHS Form N-560 or N-561);~~

~~(d) One (1) of the following documents submitted with evidence of identity if a document identified in paragraphs, (a) through (c) of this subsection is not available or cannot be obtained:~~

~~1. A United States birth certificate;~~

~~2. A Certification of Birth issued by the Department of State (Form DS-1350);~~

~~3. A Report of Birth Abroad of a Citizen of the United States (Form FS-240);~~

~~4. A Certification of Birth Abroad (FS-545);~~

~~5. A United States Citizen Identification Card (DHS Form I-197);~~

~~6. An American Indian Card (I-872);~~

~~7. A final adoption decree;~~

~~8. Evidence of civil service employment by the United States government before~~

~~June 1976; or~~

~~9. An official military record of service showing a United States place of birth;~~

~~(e) One (1) of the following documents submitted with evidence of identity if a document identified in paragraphs (a) through (d) of this subsection is not available or cannot be obtained:~~

~~1. An extract of a United States hospital record of birth that:~~

~~a. Was established at the time of a person's birth;~~

~~b. Was created at least five (5) years before the initial application date; and~~

~~c. Indicates a United States place of birth; or~~

~~2. A life, health, or other insurance record that:~~

~~a. Shows a United States place of birth; and~~

~~b. Was created at least five (5) years before the initial application date; or~~

~~(f) One (1) of the following documents submitted with evidence of identity if a document identified in paragraphs (a) through (e) of this subsection is not available or cannot be obtained, the applicant alleges citizenship, and nothing exists to indicate the person is not a citizen:~~

~~1. Federal or state census record showing:~~

~~a. United States citizenship; or~~

~~b. A United States place of birth;~~

~~2. Institutional admission papers that:~~

~~a. Are from a nursing facility, skilled nursing facility, or other institution;~~

~~b. Were created at least five (5) years before the initial application date; and~~

~~c. Indicate a United States place of birth;~~

1 ~~3. Medical record that:~~

2 ~~a. Was created at least five (5) years before the initial application date, unless the~~
3 ~~application is for a child under age five (5); and~~

4 ~~b. Indicates a United States place of birth unless the application is for a child under~~
5 ~~age five (5); or~~

6 ~~4. Written affidavit by at least two (2) individuals:~~

7 ~~a. Of whom one (1) is not related to the applicant;~~

8 ~~b. Who have personal knowledge of the event establishing the applicant's claim of~~
9 ~~citizenship; and~~

10 ~~c. Who provide proof of their own citizenship and identity.~~

11 ~~(8) "Qualified alien" means an alien who, at the time the alien applies for or receives~~
12 ~~Medicaid, meets the requirements established in Section 5(12) of this administrative~~
13 ~~regulation.~~

14 ~~(9) "Veteran" is defined in 38 U.S.C. 101(2).~~

15 ~~Section 2.] The Categorically Needy. (1) An individual receiving Title IV-E benefits,~~
16 ~~SSI benefits, or an optional or a mandatory state supplement[Supplemental Security In-~~
17 ~~come, or Optional or Mandatory State Supplementation] shall be eligible for Medicaid~~
18 ~~as a categorically-needy individual.~~

19 (2) The following classifications of [needy] persons shall be considered[~~included in~~
20 ~~the program as~~] categorically needy and [thus] eligible for Medicaid participation as cat-
21 ~~egorically needy:~~

22 (a) A child in a foster family care or private nonprofit child-caring institution depend-
23 ent on a governmental or private agency;

(b) A child in a psychiatric hospital, psychiatric residential treatment facility, or intermediate care facility for individuals with an intellectual disability;

~~(c) [A pregnant woman;~~

~~(d) A child of unemployed parents;~~

~~(e)] A child in a subsidized adoption dependent on a governmental agency;~~

~~(d) [(f) A child (but not his parents) who:~~

~~1. Would have been financially eligible for Aid to Families with Dependent Children benefits using the AFDC methodologies in effect on July 16, 1996; and~~

~~2. Meets the definition of Section 1(2) of this administrative regulation;~~

~~(g)] A qualified severely impaired individual as specified in 42 U.S.C. 1396a(a)(10)(A)(i)(II) and 1396d, [(f) to the extent the coverage is mandatory in this state, [)];~~

~~(e) [(h)] An individual who loses SSI benefit eligibility but would be eligible for SSI benefits except for entitlement to or an increase in his child's insurance benefits based on disability as specified in 42 U.S.C. 1383c;~~

~~(f) [(i)] An individual specified in 42 U.S.C. 1383c who:~~

~~1. Loses SSI benefits or state supplement [supplementation] payments as a result of receipt of benefits pursuant to 42 U.S.C. 402(e) or (f);~~

~~2. Would be eligible for SSI benefits or state supplement payments [or SSP] except for these benefits; and~~

~~3. Is not entitled to Medicare Part A benefits [hospital insurance benefits under the Medicare program];~~

~~(g) [(j)] A disabled widow, widower, or disabled surviving divorced spouse, who would~~

1 be eligible for SSI benefits except for entitlement to an OASDI~~[old-age, survivors, or~~
2 ~~disability insurance (OASDI)]~~ benefit resulting from a change in the definition of disabil-
3 ity;

4 ~~(h)[(k)]~~ A child who:

5 1. Was receiving SSI benefits~~[supplemental security income]~~ on August 22, 1996;

6 and

7 2. Except for the change in definition of childhood disability would continue to receive
8 SSI benefits~~[supplemental security income]~~; or

9 ~~(i)[(4)]~~ A person with hemophilia who would be eligible for SSI benefits~~[supplemental~~
10 ~~security income]~~ except that the individual~~[he]~~ received a settlement in a class action
11 lawsuit entitled "Factor VIII or IX Concentrate Blood Products Litigation".

12 (3) The classifications of ~~[needy]~~ persons listed in this subsection shall be consid-
13 ered~~[included in the program as]~~ categorically-needy and ~~[thus]~~ eligible for Medicaid
14 participation as limited by the provisions of this subsection.

15 (a) A family which correctly received Medicaid for three (3) of the last six (6) calendar
16 months, and would have been terminated from receipt of AFDC using AFDC methodol-
17 ogies in effect on July 16, 1996 as a result of new or increased collection of child or
18 spousal support, shall be eligible for extended Medicaid coverage for four (4) consecu-
19 tive calendar months beginning with the first month the family would have been ineligi-
20 ble for AFDC.

21 (b) A family which would have been terminated from AFDC assistance using the
22 AFDC methodologies in effect on July 16, 1996 because of increased earnings, hours
23 of employment or loss of earnings disregards shall be eligible for up to four (4)~~[twelve~~

1 ~~(42)]~~ months of extended Medicaid.

2 ~~(c)1.[(c) A child born to a woman eligible for and receiving Medicaid shall be eligible~~
3 ~~for Medicaid as of the date of his birth:]~~

4 ~~1. The child:~~

5 ~~a. Has not reached his first birthday; and~~

6 ~~b. Resides in the household of the woman; and~~

7 ~~2. The woman remains, or would remain if pregnant, eligible for the assistance.~~

8 ~~(d)1.]~~ Except as provided in subparagraph 3 of this paragraph, an individual in an in-
9 stitution meeting appropriate patient status criteria who, if not institutionalized, would
10 not be eligible for SSI benefits~~[supplemental security income (SSI)]~~ or optional state
11 supplement~~[supplementation]~~ benefits due to income shall be eligible under a special
12 income level which is set at 300 percent of the SSI benefit amount payable for an indi-
13 vidual with no income.

14 2. Except as provided in subparagraph 3 of this paragraph, eligibility for a similar
15 hospice participant or similar participant in a 1915(c) home and community based waiv-
16 er program~~[in a waiver project of home and community based services]~~ for individuals
17 with an intellectual disability~~[the mentally retarded]~~ or the aged, blind, or disabled shall
18 be determined using the method established in subparagraph 1 of this subsection.

19 3. Eligibility of an institutionalized individual in an intermediate care facility for individ-
20 uals with an intellectual disability (ICF IID) or supports for community living ~~[(SCL)]~~ for
21 an individual with an intellectual or a developmental disability waiver meeting appropri-
22 ate patient status criteria whose gross income exceeds 300 percent of the SSI benefit
23 amount shall be determined by comparing the cost of the individual's care to the indi-

vidual's income.

Section 2. Citizenship and Residency Requirements. (1) The citizenship requirements established in 42 C.F.R. 435.406 shall apply.

(2) Except as established in subsection (3) or (4) of this section, to satisfy the Medicaid:

(a) Citizenship requirements, an applicant or recipient shall be:

1. A citizen of the United States as verified through satisfactory documentary evidence of citizenship or nationality presented during initial application or if a current recipient, upon next redetermination of continued eligibility;

2. Except as provided in subsection (3) of this section, a qualified alien who entered the United States before August 22, 1996 and is:

a. Lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101;

b. Granted asylum pursuant to 8 U.S.C. 1158;

c. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;

d. Paroled into the United States pursuant to 8 U.S.C. 1182(d)(5) for a period of at least one (1) year;

e. An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h), as in effect prior to April 1, 1997, or 8 U.S.C. 1231(b)(3);

f. Granted conditional entry pursuant to 8 U.S.C. 1153(a)(7), as in effect prior to April 1, 1980;

g. An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 U.S.C. 1522;

h. A battered alien pursuant to 8 U.S.C. 1641(c);

1 i. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge charac-
2 terized as an honorable discharge and not on account of alienage;

3 j. On active duty other than active duty for training in the Armed Forces of the United
4 States and who fulfills the minimum active duty service requirements established in 38
5 U.S.C. 5303A(d);

6 k. The spouse or unmarried dependent child of an individual described in clause i. or
7 j. of this subparagraph or the unremarried surviving spouse of an individual described in
8 clause i. or j. of this subparagraph if the marriage fulfills the requirements established in
9 38 U.S.C. 1304; or

10 l. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or

11 3. A qualified alien who entered the United States on or after August 22, 1996 and is:

12 a. Granted asylum pursuant to 8 U.S.C. 1158;

13 b. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;

14 c. An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h) as in
15 effect prior to April 1, 1997 or 8 U.S.C. 1231(b)(3);

16 d. An alien who is granted status as a Cuban and Haitian entrant pursuant to 8
17 U.S.C. 1522;

18 e. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge charac-
19 terized as an honorable discharge and not on account of alienage;

20 f. On active duty other than active duty for training in the Armed Forces of the United
21 States and who fulfills the minimum active duty service requirements established in 38
22 U.S.C. 5303A(d);

23 g. The spouse or unmarried dependent child of an individual described in clause e.

1 or f. of this subparagraph or the unremarried surviving spouse of an individual clause e.
2 or f. of this subparagraph if the marriage fulfills the requirements established in 38
3 U.S.C. 1304;

4 h. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or
5 i. An individual lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101
6 who has earned forty (40) quarters of Social Security coverage; and

7 (b) Residency requirements, the applicant or recipient shall be a resident of Kentucky
8 who meets the conditions for determining state residency pursuant to 42 C.F.R.
9 435.403.

10 (3) A qualified or nonqualified alien shall be eligible for medical assistance as provid-
11 ed in this paragraph.

12 (a) The individual shall meet the income, resource, and categorical requirements of
13 the Medicaid Program.

14 (b) The individual shall have, or have had within at least one (1) of the three (3)
15 months prior to the month of application, an emergency medical condition:

16 1. Not related to an organ transplant procedure;
17 2. Which shall be a medical condition, including severe pain, in which the absence of
18 immediate medical attention could reasonably be expected to result in placing the indi-
19 vidual's health in serious jeopardy, serious impairment to bodily functions, or serious
20 dysfunction of any bodily organ or part.

21 (c)1. Approval of eligibility shall be for a time limited period which includes, except as
22 established in subparagraph 2, the month in which the medical emergency began and
23 the next following month.

1 2. The eligibility period shall be extended for an appropriate period of time upon
2 presentation to the department of written documentation from the medical provider that
3 the medical emergency will exist for a more extended period of time than is allowed for
4 in the time limited eligibility period.

5 (d) The Medicaid benefits to which the individual is entitled shall be limited to the
6 medical care and services, including limited follow-up, necessary for the treatment of
7 the emergency medical condition of the individual.

8 (4)(a) The satisfactory documentary evidence of citizenship or nationality require-
9 ment in subsection (2)(a)1 of this section shall not apply to an individual who:

- 10 1. Is receiving SSI benefits;
11 2. Previously received SSI benefits but is no longer receiving them;
12 3. Is entitled to or enrolled in any part of Medicare;
13 4. Previously received Medicare benefits but is no longer receiving them;
14 5. Is receiving:
15 a. Disability insurance benefits under 42 U.S.C. 423; or
16 b. Monthly benefits under 42 U.S.C. 402 based on the individual's disability pursuant
17 to 42 U.S.C. 223(d);
18 6. Is in foster care and who is assisted under Title IV-B of the Social Security Act; or
19 7. Receives foster care maintenance or adoption assistance payments under Title
20 IV-E of the Social Security Act.

21 (b) The department's documentation requirements shall be in accordance with the
22 requirements established in 42 U.S.C. 1396b(x).

23 (5) The department shall assist an applicant or recipient who is unable to secure sat-

1 isfactory documentary evidence of citizenship or nationality in a timely manner because
2 of incapacity of mind or body and lack of a representative to act on the applicant's or
3 recipient's behalf;

4 (6) An individual shall be determined eligible for Medicaid for up to three (3) months
5 prior to the month of application if all conditions of eligibility are met.

6 ~~[(e) A woman during pregnancy, and as though pregnant through the end of the~~
7 ~~month containing the 60th day of a period beginning on the last day of pregnancy, or a~~
8 ~~child under six (6) years of age, as specified in 42 U.S.C. 1396a(l)(1), shall meet the in-~~
9 ~~come requirements for this eligibility group as specified in 907 KAR 1:640.~~

10 ~~(f) If an eligible child is receiving covered inpatient services on a birthday which will~~
11 ~~make him ineligible due to age, the child shall remain eligible until the end of the stay~~
12 ~~for which the covered inpatient services are furnished if the child remains otherwise eli-~~
13 ~~gible except for age.~~

14 ~~(g) A child who has attained six (6) years of age but has not attained nineteen (19)~~
15 ~~years of age as specified in 42 U.S.C. 1396a(l)(1) shall meet income requirements es-~~
16 ~~tablished in 907 KAR 1:640, Section 2(2)(c).~~

17 ~~(h) If federal Medicaid matching funds are available to cover the costs of the pro-~~
18 ~~gram, an optional targeted low-income child as established in 907 KAR 4:020, Section~~
19 ~~2(1) who has not attained the age of nineteen (19) years as specified in 42 U.S.C.~~
20 ~~1396a(l)(1) shall meet the income requirements established in 907 KAR 1:640 Section~~
21 ~~2(2)(f).]~~

22 Section 3. The Medically Needy Who Qualify Via Spenddown. A medically needy in-
23 dividual~~[(1) An individual, including a child pursuant to Section 2(2)(f) of this administra-~~

~~tive regulation or a pregnant woman]~~ who has sufficient income to meet the individual's basic maintenance needs, may apply for Medicaid with need determined in accordance with the income and resource standards established in 907 KAR 20:020 through 907 KAR 20:045~~[907 KAR 1:640, through 907 KAR 1:665]~~, if the individual meets:

(1)~~[(a)]~~ The income and resource standards of the medically needy program established in 907 KAR 20:020~~[907 KAR 1:640]~~ and 907 KAR 20:025~~[907 KAR 1:645]~~; and

(2)~~[(b)]~~ The technical requirements of the appropriate categorically needy group identified in Section 1~~[2]~~ of this administrative regulation.

~~[(2) The medically needy eligible groups shall include:~~

~~(a) A pregnant woman during the course of her pregnancy;~~

~~(b) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance, and who shall continue to be eligible as though she were pregnant until the end of the month containing the 60th day of a period beginning on the last day of her pregnancy (i.e., the day on which her child is born or the pregnancy is otherwise terminated); and~~

~~(c) A Medicaid works individual.]~~

Section 4. Qualified Medicare Beneficiaries, Qualified Disabled and Working Individuals, Specified Low-Income Medicare Beneficiaries, and Medicare Qualified Individuals Group 1 (QI-1)~~[(QI)]~~.

(1) Coverage shall be extended to a qualified Medicare beneficiary as specified in 42 U.S.C. 1396a(a)(10)(E);

(a) Subject to the income limits established in 907 KAR 20:020:

(b) Subject to the resource limits established in 907 KAR 20:025; and

1 (c) For the scope of benefits specified for a QMB in 907 KAR 1:006.

2 (2) A QMB shall:

3 (a) Be eligible for or receive Medicare Part A and Part B benefits;

4 (b) Be determined to be eligible for QMB benefits effective for the month after the
5 month in which the eligibility determination has been made; and

6 (c) Not be eligible for QMB benefits:

7 1. Retroactively; or

8 2. For the month in which the eligibility determination was made.

9 ~~(3)[, subject to the income as shown in 907 KAR 1:640, and resource limitations~~
10 ~~shown in 907 KAR 1:645 and for the scope of benefits specified in 907 KAR 1:006 A~~
11 ~~qualified Medicare beneficiary shall:~~

12 ~~(a) Be eligible for and receiving Medicare Part A benefits;~~

13 ~~(b) Be determined eligible for benefits as a qualified Medicare beneficiary eligible in-~~
14 ~~dividual effective for the month after the month in which the determination is made; and~~

15 ~~(c) Not be eligible for benefits as a qualified Medicare beneficiary eligible individual:~~

16 ~~1. Retroactively; or~~

17 ~~2. For the month in which the determination was made.~~

18 ~~(2)] A qualified disabled and working individual[as defined in 42 U.S.C. 1396d(s)]~~
19 ~~shall be eligible under Medicaid for payment of the individual's[his] Medicare Part A~~
20 ~~premiums as established in 907 KAR 1:006.~~

21 ~~(4)[(3)] A specified low-income Medicare beneficiary [as defined in 42 U.S.C.~~
22 ~~1396a(a)(10)(E)(iii)] shall be eligible under Medicaid for payment of the Medicare Part B~~
23 ~~premiums.~~

~~(5)[(4)] A Medicare qualified individual group 1 (QI-1) [as established in 42 U.S.C. 1396a(a)(10)(E)(iv)] shall be eligible for payment of all of the Medicare Part B premium.~~

Section 5. Technical Eligibility Requirements. The technical eligibility factors ~~[for a family or individual]~~ included as categorically needy under Section ~~1[2]~~ of this administrative regulation ~~[or as medically needy under Section 3 of this administrative regulation]~~ shall be as established in this section.

(1) A child in foster care, a private institution, psychiatric hospital, psychiatric residential treatment facility, or intermediate care facility for individuals with an intellectual disability~~[mental retardation institution]~~ shall meet the definition requirements of child as established in 907 KAR 20:001(24)~~[Section 1(2) of this administrative regulation]~~.

~~(2) [Except as provided by Section 2 of this administrative regulation, a pregnant woman shall be eligible upon medical proof of pregnancy.]~~

~~(3) At the time of application, unemployment relating to eligibility of both parents and children shall be determined using the following criteria:~~

~~(a)1. Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if:~~

~~a. The work is intermittent; and~~

~~b. The excess is of a temporary nature as evidenced by the fact that the individual:~~

~~(i) Was under the 100-hour standard for the prior two (2) months; and~~

~~(ii) Is expected to be under the standard during the next month;~~

~~2. Within twelve (12) months prior to application, a parent received unemployment compensation; or~~

~~3. A parent is receiving or has been found ineligible for unemployment compensa-~~

tion; and

(b) A parent shall not have refused suitable employment without good cause as determined in accordance with 45 C.F.R. 233.100(a)(3)(ii).

(4) Subsection (3)(a) of this section shall not apply if a change is made in a Medicaid case or if a case is recertified.

(5) An aged individual shall be at least sixty-five (65) years of age.

(3)(6) A blind individual shall meet the definition of blindness as contained in 42 U.S.C. 416 and 42 U.S.C. 1382c relating to Retirement, Survivors, and Disability Insurance or SSI benefits [retirement, survivors, and disability insurance (RSDI) or supplemental security income (SSI)].

(4)(7) A disabled individual shall meet the definition of permanent and total disability as established [contained] in 42 U.S.C. 423(d) and 42 U.S.C. 1382c(a)(3) relating to RSDI and SSI benefits.

(5)(a)(8) Using AFDC methodologies in effect on July 16, 1996, a family who loses Medicaid eligibility solely because of increased earnings or hours of employment of the caretaker relative or loss of earnings disregards may receive up to four (4) [twelve (12)] months of extended medical assistance for family members included in the medical assistance unit prior to losing Medicaid eligibility. [The extended medical assistance shall be divided into two (2) transitional six (6) month benefit periods.]

(b) The family shall meet the eligibility and reporting requirements for the [each transitional] benefit period established in this subsection.

(c)(a) The [first transitional six (6) month] benefit period shall begin with the month the family would have become ineligible for AFDC using AFDC methodologies in effect

on July 16, 1996.

1. To be eligible for this transitional benefit period, the family shall:

a. Have correctly received Medicaid assistance in three (3) of the six (6) months immediately preceding the month the family would have become ineligible for AFDC using AFDC methodologies in effect on July 16, 1996;

b. Have a dependent child living in the home; and

c. Report earnings and child care costs no later than the 21st day of the fourth month.

2. If the family no longer has a dependent child living in the home, medical assistance shall be terminated the last day of the month the family no longer includes a dependent child.

~~(6)[3. If the reporting requirements are not met, the Medicaid benefits shall be denied for the second transitional six (6) month benefit period.~~

~~(b)1. To continue to receive Medicaid for the optional second transitional six (6) month benefit period, the family shall:~~

~~a. Have received medical assistance for the entire first transitional six (6) month period and met the reporting requirements;~~

~~b. Have a dependent child living in the home;~~

~~c. Have gross income minus child care cost equaling less than 185 percent of the federal poverty income level;~~

~~d. Report earnings and child care costs no later than the 21st day of the fourth month, the seventh month, and the tenth month; and~~

~~e. During the immediately preceding three (3) months, have a caretaker relative who~~

shall have been:

~~(i) Employed; or~~

~~(ii) If unemployed in one (1) or more months, unemployed due to involuntary loss of employment, illness or other good cause established to the satisfaction of the Medicaid program in accordance with paragraph (c) of this subsection.~~

~~2. If a family no longer has a dependent child living in the home, Medicaid shall be terminated the last day of the month the family no longer includes a dependent child.~~

~~3. If the family's income exceeds the income standard or the family does not meet the reporting requirements, except for good cause established to the satisfaction of the Medicaid program in accordance with paragraph (c) of this subsection, the medical assistance shall be terminated the last day of the appropriate reporting month.~~

~~(c) Good cause shall exist under the following circumstances:~~

~~1. The specified relative was out of town for the reporting month;~~

~~2. An immediate family member living in the home was institutionalized or died during the reporting month;~~

~~3. The assistance group was the victim of a natural disaster including a flood, storm, earthquake or serious fire; or~~

~~4. The assistance group moved and reported the move timely, but the move resulted in a delay in receiving or failure to receive the transitional medical assistance report form.~~

~~(9) A parent, including a natural or adoptive parent, may be included for assistance in the case of a family with a child.~~

~~(a) If a parent is not included in the case, one (1) other caretaker relative may be in-~~

1 ~~cluded to the same extent he would have been eligible in the Aid to Families with De-~~
2 ~~pendent Children program using the AFDC methodology in effect on July 16, 1996.~~

3 ~~(b) A caretaker relative shall include:~~

4 ~~1. Grandfather;~~

5 ~~2. Grandmother;~~

6 ~~3. Brother;~~

7 ~~4. Sister;~~

8 ~~5. Uncle;~~

9 ~~6. Aunt;~~

10 ~~7. Nephew;~~

11 ~~8. Niece;~~

12 ~~9. First cousin;~~

13 ~~10. A relative of the half blood;~~

14 ~~11. A preceding generation denoted by a prefix of:~~

15 ~~a. Grand;~~

16 ~~b. Great; or~~

17 ~~c. Great-great; or~~

18 ~~12. A stepfather, stepmother, stepbrother, or stepsister.~~

19 ~~(10)]~~ An applicant who is deceased shall have eligibility determined in the same
20 manner as if the applicant[he] were alive[,], to cover medical expenditures during the
21 terminal illness.

22 ~~(7)(a)](11) Children of the same parent, i.e., a "common" parent, residing in the same~~
23 ~~household shall be included in the same case unless this acts to preclude eligibility of~~

~~an otherwise eligible household member. If a family member is pregnant, the unborn child shall be considered as a family member for budgeting purposes.~~

~~(12) The citizenship and residency requirements established in this subsection shall be applicable.~~

~~(a) To be eligible for Medicaid, an applicant or recipient shall be:~~

~~1.a. A citizen of the United States as verified through satisfactory documentary evidence of citizenship or nationality presented during initial application or if a current recipient, upon next redetermination of continued eligibility. The cabinet:~~

~~(i) Shall exempt an applicant or recipient who currently receives Medicare or SSI or who no longer receives Medicare or SSI, but has received one (1) of them in the past, from providing further documentation of citizenship or nationality;~~

~~(ii) Shall assist an applicant or recipient who is unable to secure satisfactory documentary evidence of citizenship or nationality in a timely manner because of incapacity of mind or body and lack of a representative to act on the applicant's or recipient's behalf; and~~

~~(iii) May use a cross match with the cabinet's Office of Vital Statistics to document a birth record or use a cross match with a federal or state governmental, public assistance, law enforcement, or corrections agency's data system to establish identity if the agency establishes and certifies true identity of individuals;~~

~~b. Except as provided in paragraph (b) of this subsection, a qualified alien who entered the United States before August 22, 1996 and is:~~

~~(i) Lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101;~~

~~(ii) Granted asylum pursuant to 8 U.S.C. 1158;~~

~~(iii) A refugee admitted to the United States pursuant to 8 U.S.C. 1157;~~

~~(iv) Paroled into the United States pursuant to 8 U.S.C. 1182(d)(5) for a period of at least one (1) year;~~

~~(v) An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h), as in effect prior to April 1, 1997, or 8 U.S.C. 1231(b)(3);~~

~~(vi) Granted conditional entry pursuant to 8 U.S.C. 1153(a)(7), as in effect prior to April 1, 1980;~~

~~(vii) An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 U.S.C. 1522;~~

~~(viii) A battered alien pursuant to 8 U.S.C. 1641(c);~~

~~(ix) A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;~~

~~(x) On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 U.S.C. 5303A(d);~~

~~(xi) The spouse or unmarried dependent child of an individual described in subclause (ix) or (x) of this clause or the unremarried surviving spouse of an individual described in subclause (ix) or (x) of this clause if the marriage fulfills the requirements established in 38 U.S.C. 1304; or~~

~~(xii) An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or~~

~~c. A qualified alien who entered the United States on or after August 22, 1996 and is:~~

~~(i) Granted asylum pursuant to 8 U.S.C. 1158;~~

~~(ii) A refugee admitted to the United States pursuant to 8 U.S.C. 1157;~~

1 ~~(iii) An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h) as in~~
2 ~~effect prior to April 1, 1997 or 8 U.S.C. 1231(b)(3);~~

3 ~~(iv) An alien who is granted status as a Cuban and Haitian entrant pursuant to 8~~
4 ~~U.S.C. 1522;~~

5 ~~(v) A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge charac-~~
6 ~~terized as an honorable discharge and not on account of alienage;~~

7 ~~(vi) On active duty other than active duty for training in the Armed Forces of the Unit-~~
8 ~~ed States and who fulfills the minimum active duty service requirements established in~~
9 ~~38 U.S.C. 5303A(d);~~

10 ~~(vii) The spouse or unmarried dependent child of an individual described in sub-~~
11 ~~clause (v) or (vi) of this clause or the unremarried surviving spouse of an individual de-~~
12 ~~scribed in subclause (v) or (vi) of this clause if the marriage fulfills the requirements es-~~
13 ~~tablished in 38 U.S.C. 1304;~~

14 ~~(viii) An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or~~

15 ~~(ix) An individual lawfully admitted for permanent residence pursuant to 8 U.S.C.~~
16 ~~1101 who has earned forty (40) quarters of Social Security coverage; and~~

17 ~~2. A resident of Kentucky meeting the conditions for determining state residency un-~~
18 ~~der 42 C.F.R. 435.403.~~

19 ~~(b) A qualified or nonqualified alien shall be eligible for medical assistance as provid-~~
20 ~~ed in this paragraph.~~

21 ~~1. The alien shall meet the income, resource and categorical requirements of the~~
22 ~~Medicaid program.~~

23 ~~2. The alien shall have, or have had within at least one (1) of the three (3) months~~

1 ~~prior to the month of application, an emergency medical condition not related to an or-~~
2 ~~gan transplant procedure, which shall be a medical condition, including severe pain, in~~
3 ~~which the absence of immediate medical attention could reasonably be expected to re-~~
4 ~~sult in placing the patient's health in serious jeopardy, serious impairment to bodily~~
5 ~~functions or serious dysfunction of any bodily organ or part.~~

6 ~~3. Approval of eligibility shall be for a time limited period, with that period to include~~
7 ~~the month in which the medical emergency began and the next following month, with~~
8 ~~the added provision that the eligibility period shall be extended for an appropriate period~~
9 ~~of time upon presentation to the department of written documentation from the medical~~
10 ~~provider that the medical emergency will exist for a more extended period of time than~~
11 ~~is allowed for in the time limited eligibility period.~~

12 ~~4. The Medicaid benefits to which the alien is entitled shall be limited to the medical~~
13 ~~care and services (including limited follow-up) necessary for the treatment of the emer-~~
14 ~~gency medical condition of the alien.~~

15 ~~(13)]~~ An individual shall be determined eligible for Medicaid for up to three (3)
16 months prior to the month of application if all conditions of eligibility are met and the ap-
17 plicant is not enrolled in a managed care organization~~[partnership]~~.

18 ~~(b)](a) Except as provided in paragraphs (b) and (c) of this subsection,]~~The effective
19 date of Medicaid shall be the first day of the month of eligibility.

20 ~~(8)(a)](b) For an individual eligible on the basis of desertion, a period of desertion~~
21 ~~shall have existed for thirty (30) days, and the effective date of eligibility shall not pre-~~
22 ~~cede the first day of the month of application.~~

23 ~~(c) For an individual eligible on the basis of utilizing his excess income for incurred~~

1 ~~medical expenses, the effective date of eligibility shall be the day the spend-down liabil-~~
2 ~~ity is met.~~

3 ~~(14)]~~ Benefits shall be denied to a family for a month in which a parent with whom the
4 child is living is, on the last day of the month, participating in a strike, and the individu-
5 al's needs shall not be considered in determining eligibility for Medicaid for the family if,
6 on the last day of the month, the individual is participating in a strike.

7 (b) A strike shall include a concerted stoppage of work by employees (including a
8 stoppage by reason of expiration of a collective bargaining agreement) ~~or[and-]~~ any
9 concerted slowdown or other concerted interruption of operations by employees.

10 ~~[(15) A caretaker relative (but not a child) removed from a family related Medicaid on-~~
11 ~~ly case due to failure to meet a technical eligibility requirement shall not be eligible for~~
12 ~~Medicaid as a medically needy individual unless the individual is separately eligible for~~
13 ~~medical assistance without regard to eligibility as a member of the group from which the~~
14 ~~individual has been removed.~~

15 ~~(16) A caretaker relative, but not a child, who is ineligible for K-TAP benefits for fail-~~
16 ~~ure to comply with K-TAP work requirements shall not be eligible for medical assistance~~
17 ~~unless the individual is eligible as a pregnant woman.]~~

18 Section 6. Institutional Status. An individual shall not be eligible for Medicaid if the
19 individual is a:

20 (1) Resident or inmate of a nonmedical public institution except as provided in Sec-
21 tion 7 of this administrative regulation;

22 (2) Patient in a state tuberculosis hospital unless he has reached age sixty-five (65);

23 (3) Patient in a mental hospital or psychiatric facility unless the individual is:

1 (a) Under age twenty-one (21) years of age;

2 (b) Under age twenty-two (22) if the individual~~[he]~~ was receiving inpatient services on
3 his or her 21st birthday; or

4 (c) Sixty-five (65) years of age or over; or

5 (4) Patient in a nursing facility classified by the Medicaid program as an institution for
6 mental diseases, unless the individual has reached age sixty-five (65).

7 Section 7. Emergency Shelters or Incarceration Status. (1) An individual or family
8 group who is in an emergency shelter for a temporary period of time shall be eligible for
9 medical assistance, even though the shelter is considered a public institution, under the
10 following conditions~~[certain conditions. These conditions shall be as follows]:~~

11 ~~(a)~~~~((4))~~ The individual or family group shall:

12 1.~~[(a)]~~ Be a resident of an emergency shelter no more than six (6) months in any nine
13 (9) month period; and

14 2.~~[(b)]~~ Not be in the facility serving a sentence imposed by the court, or awaiting trial;
15 and

16 ~~(b)~~~~(2)~~ Eligibility for Medicaid shall have existed immediately prior to admittance to the
17 shelter~~[,]~~ or it shall exist immediately after leaving the shelter.

18 (2) An inmate may be eligible for Medicaid after having been admitted to a medical
19 institution and been an inpatient at the institution for at least twenty-four (24) consecu-
20 tive hours.

21 Section 8. Application for Other Benefits. (1) As a condition of eligibility for Medicaid,
22 an applicant or recipient shall apply for each annuity, pension, retirement, and disability
23 benefit to which the applicant or recipient~~[he]~~ is entitled, unless the applicant or recipi-

ent[he] can show good cause for not doing so.

(a) Good cause shall be considered to exist if other benefits have previously been denied with no change of circumstances[,] or the individual does not meet all eligibility conditions.

(b) Annuities, pensions, retirement, and disability benefits shall include:

1. Veterans' compensations and pensions;
2. Retirement and survivors disability insurance benefits;
3. Railroad retirement benefits;
4. Unemployment compensation; and
5. Individual retirement accounts.

(2) An applicant or recipient shall not be required to apply for federal benefits if:

(a) The federal law governing that benefit specifies that the benefit is optional; and

(b) The applicant or recipient believes that applying for the benefit would be to the applicant's or recipient's[his] disadvantage.

(3) An individual who would be eligible for SSI benefits~~[supplemental security income (SSI)]~~ but has not made application shall not be eligible for Medicaid.

Section 9. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient shall be deemed to have made an assignment to the cabinet~~[Cabinet for Health and Family Services]~~ of any medical support owed for the child not to exceed the amount of Medicaid payments made on behalf of the recipient.

Section 10. Third-party Liability as a Condition of Eligibility. (1)(a) Except as provided in subsection (3) of this section, an individual applying for or receiving Medicaid shall be required as a condition of eligibility to cooperate with the cabinet~~[Cabinet for Health and~~

1 ~~Family Services~~] in identifying, and providing information to assist the cabinet in pursu-
2 ing, any third party who may be liable to pay for care or services available under the
3 Medicaid program unless the individual has good cause for refusing to cooperate.

4 (b) Good cause for failing to cooperate shall exist if cooperation:

5 1. Could result in physical or emotional harm of a serious nature to a child or custo-
6 dial parent;

7 2. Is not in a child's best interest because the child was conceived as a result of rape
8 or incest; or

9 3. May interfere with adoption considerations or proceedings.

10 (2) A failure of the individual to cooperate without good cause shall result in ineligibil-
11 ity of the individual.

12 (3) A pregnant woman eligible under poverty level standards shall not be required to
13 cooperate in establishing paternity or securing support for her unborn child.

14 Section 11. Provision of Social Security Numbers. (1) Except as provided in subsec-
15 tions (2) and (3) of this section, an applicant or recipient of Medicaid shall provide a So-
16 cial Security number as a condition of eligibility.

17 (2) An individual shall not be denied eligibility or discontinued from eligibility due to a
18 delay in receipt of a Social Security number from the United States Social Security Ad-
19 ministration if appropriate application for the number has been made.

20 (3) An individual who refuses to obtain a Social Security number due to a well-
21 established religious objection shall not be required to provide a Social Security number
22 as a condition of eligibility.

23 Section 13. Applicability. (1) The provisions and requirements of this administrative

1 regulation shall:

2 (a) Apply to:

3 1. Children in foster care;

4 2. Aged, blind, or disabled individuals; and

5 3. Individuals who receive supplemental security income benefits; and

6 (b) Not apply to an individual:

7 1. Whose Medicaid eligibility is determined using the modified adjusted gross income
8 standard; or

9 2. Between the ages of nineteen (19) and twenty-six (26) years who:

10 a. Formerly was in foster care; and

11 b. Aged out of foster care while receiving Medicaid coverage.

12 (2) An individual whose Medicaid eligibility is determined using a modified adjusted
13 gross income as the eligibility standard shall be an individual who is:

14 (a) A child under the age of nineteen (19) years, excluding children in foster care;

15 (b) A caretaker relative with income up to 133 percent of the federal poverty level;

16 (c) A pregnant woman, with income up to 185 percent of the federal poverty level, in-
17 cluding the postpartum period up to sixty (60) days after delivery;

18 (d) An adult under age sixty-five (65) with income up to 133 percent of the federal
19 poverty level who:

20 1. Does not have a dependent child under the age of nineteen (19) years; and

21 2. Is not otherwise eligible for Medicaid benefits; or

22 (e) A targeted low income child with income up to 150 percent of the federal poverty
23 level.~~[If the parent or caretaker relative and the child, unless the child is a deemed eligi-~~

- 1 ~~ble newborn, refuses to cooperate with obtaining a Social Security number for the new-~~
- 2 ~~born child or other dependent child, the parent or caretaker relative shall be ineligible~~
- 3 ~~due to failure to meet technical requirements.]~~

907 KAR 20:005E

REVIEWED:

Date

Lawrence Kissner, Commissioner
Department for Medicaid Services

APPROVED:

Date

Audrey Tayse Haynes, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 20:005E

Cabinet for Health and Family Services

Department for Medicaid Services

Agency Contact: Marchetta Carmicle (502) 564-6204 or Stuart Owen (502) 564-4321

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes technical eligibility requirements for Kentucky's Medicaid program for children in foster care; aged, blind, or disabled individuals; and individuals who receive supplemental security income (SSI) benefits. The requirements in this administrative regulation do not apply to individuals for whom a modified adjusted gross income, or MAGI, is the Medicaid income eligibility standard or to former foster care individuals between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid coverage.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Medicaid program eligibility requirements in accordance with federal law and regulation and as authorized by KRS 194A.030(2) which establishes the Department for Medicaid Services as the commonwealth's single state agency for administering the federal Social Security Act.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 194A.030(2), 194A.050(1) and 205.520(3) by establishing Medicaid program technical eligibility requirements in accordance with federal law and as authorized by KRS 194A.030(2).
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of KRS 194A.030(2), 194A.050(1) and 205.520(3) by by establishing Medicaid program technical eligibility requirements in accordance with federal law and as authorized by KRS 194A.030(2).
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: The amendment establishes that the technical eligibility requirements do not apply to individuals for whom a modified adjusted gross income (or MAGI) is the Medicaid eligibility standard or to former foster care individuals between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid coverage. The Affordable Care Act bars the application of certain existing technical eligibility requirements to these populations. The requirements for MAGI individuals are being established in a separate administrative regulation – 907 KAR 20:100 – and the requirements for former foster care individuals are being established in another separate administrative regulation – 907 KAR 20:075. The MAGI group and former foster care group were created by the Af-

fordable Care Act. An optional eligibility group which DMS has added to the administrative regulation is hospital admissions for incarcerated individuals who are admitted to an inpatient hospital for at least twenty-four (24) hours (provided that the individual meets Medicaid eligibility criteria.) DMS anticipates that some pregnant women will qualify under this option. Additionally, the amendment eliminates the Medicaid requirement that in order to receive coverage under Medicaid, newborns must live with the mother and that the mother must remain eligible for Medicaid (or would remain eligible if still pregnant) and also clarifies that the technical eligibility requirements apply to children in foster, care; aged, blind, or disabled individuals; and individuals who receive supplemental security income benefits. The amendment also reduces the Medicaid benefit period for individuals who qualified for benefits via an eligibility option for individuals who received Aid to Families with Dependent Children (AFDC) from twelve (12) months to four (4) months. DMS is reducing the period as it anticipates that such individuals will be able to qualify for Medicaid benefits under the revised Affordable Care Act eligibility rules on a longer-term basis or be eligible to receive highly subsidized assistance with health insurance premiums via the Health Benefits Exchange being established in Kentucky as authorized by the Affordable Care Act. Also, the citizenship requirements are revised. Also, the definitions are deleted from the administrative regulation as the Department for Medicaid Services (DMS) is creating a definitions administrative regulation for Chapter 20 – the new chapter which will house Medicaid eligibility administrative regulations. The amendment also includes language and formatting revisions to comply with KRS Chapter 13A requirements.

- (b) The necessity of the amendment to this administrative regulation: The amendments regarding the MAGI group and the former foster care group are necessary to comply with a federal mandate (Affordable Care Act.) The amendment regarding newborn eligibility is necessary to comply with the Children's Health Insurance Program Reauthorization Act of 2009 provision, regarding newborn eligibility, which was codified into 42 USC 1396a(e)(4) and to comply with the Affordable Care Act requirement regarding populations to which technical eligibility requirements apply. The citizenship requirement amendment is necessary to comply with changes in the federal requirements. The amendment which reduces the Medicaid benefit period for individuals who qualified for benefits via an eligibility option for individuals who received Aid to Families with Dependent Children (AFDC) from twelve (12) months to four (4) months is necessary as DMS anticipates that such individuals will be able to qualify for Medicaid benefits under the revised Affordable Care Act eligibility rules on a longer-term basis or be eligible to receive highly subsidized assistance with health insurance premiums via the Health Benefits Exchange being established in Kentucky as authorized by the Affordable Care Act.
- (c) How the amendment conforms to the content of the authorizing statutes: The MAGI-related amendment and former foster care individual-related amendment conform to the content of the authorizing statutes by complying with federal mandates. The newborn-related amendment conforms with 42 USC 1396a(e)(4) by eliminating the Medicaid requirement that, in order to receive coverage under

Medicaid, newborns must live with the mother and that the mother must remain eligible for Medicaid (or would remain eligible if still pregnant.)

- (d) How the amendment will assist in the effective administration of the statutes: The MAGI-related amendment and former foster care individual-related amendment will assist in the effective administration of the authorizing statutes by complying with federal mandates. The newborn-related amendment conforms with 42 USC 1396a(e)(4) by eliminating the Medicaid requirement that, in order to receive coverage under Medicaid, newborns must live with the mother and that the mother must remain eligible for Medicaid (or would remain eligible if still pregnant.).
- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Individuals for whom a modified adjusted gross income is used as the income eligibility standard are affected as they are exempt from the requirements established in this administrative regulation. The Department for Medicaid Services (DMS) projects that the number of individuals, beginning January 1, 2014, for whom a modified adjusted gross income will be the Medicaid eligibility income standard will be 678,000. Former foster care individuals between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid coverage are also affected as they are likewise exempt from the requirements. DMS projects that number could reach over 3,300 within twelve (12) months. Incarcerated individuals (most likely those that are pregnant) are potentially affected in that any such individual who is admitted to an inpatient hospital for at least twenty-four (24) hours would qualify for Medicaid coverage. Additionally, newborns are affected by gaining Medicaid eligibility due to not having to live with their mother in order to be Medicaid eligible.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
 - (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Individuals would need to apply for Medicaid coverage in order to gain Medicaid coverage.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). This amendment imposes no cost on the regulated entities or individuals.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individuals exempt from the requirements will benefit by being exempt from the requirements. Incarcerated individuals (most likely pregnant individuals) who are admitted to an inpatient hospital for at least twenty-four (24) hours and meet Medicaid eligibility criteria would benefit by receiving Medicaid coverage. Additionally, newborns who would have not been eligible for Medicaid coverage due to the prior policy would presumably be eligible as a result of the amendment to the policy.

- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: DMS projects no cost as a result of exempting the MAGI population and former foster care individuals from the requirements in this administrative regulation. Requirements for those individuals are being established in separate administrative regulations. Covering inpatient hospital care for qualifying incarcerated individuals (most likely pregnant women) will reduce state general fund expenditures as the Department of Corrections currently pays for this care, but estimating the expenditure reduction for this segment of the incarcerated population is indeterminable.
 - (b) On a continuing basis: The response provided in paragraph (a) regarding the initial cost also applies as a cost estimate on a continuing basis.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and under the Affordable Care Act and matching funds of general fund appropriations.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement the amendments.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation neither establishes nor increases any fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used). Tiering is applied in that the technical eligibility requirements do not apply to populations who are exempted from the requirements pursuant to the Affordable Care Act.

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 907 KAR 20:005E

Agency Contact: Marchetta Carmicle (502) 564-6204 or Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(e) and 42 U.S.C. 1396a(a)(10)(A)(i)(IX).
2. State compliance standards. KRS 205.520(3) states, “to qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.”
3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(e)(4) eliminates the Medicaid requirement that, in order to receive coverage under Medicaid, newborns must live with the mother and that the mother must remain eligible for Medicaid (or would remain eligible if still pregnant.)

42 U.S.C. 1396a(e) exempts the application of certain existing technical eligibility requirements to individuals whose Medicaid eligibility standard is a modified adjusted gross income.

42 U.S.C. 1396a(a)(10)(A)(i)(IX) creates the new eligibility group comprised of former foster care individuals between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid coverage.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment neither imposes stricter nor additional nor different responsibilities nor requirements than those required by the federal mandate.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 907 KAR 20:005E

Agency Contact: Marchetta Carmicle (502) 564-6204 or Stuart Owen (502) 564-4321

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (DMS) will be impacted by the amendment.
2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 42 USC 1396a(a)(10) and 42 USC 1396a(e)(4).
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS anticipates no revenue being generated for the first year for state or local government due to the amendment to this administrative regulation.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS anticipates no revenue being generated for subsequent years for state or local government due to the amendment to this administrative regulation.
 - (c) How much will it cost to administer this program for the first year? DMS projects no cost as a result of exempting the MAGI population and former foster care individuals from the requirements in this administrative regulation. Requirements for those individuals are being established in separate administrative regulations. Covering inpatient hospital care for qualifying incarcerated individuals (most likely pregnant women) will reduce state general fund expenditures as the Department of Corrections currently pays for this care, but estimating the expenditure reduction for this segment of the incarcerated population is indeterminable.
 - (d) How much will it cost to administer this program for subsequent years? The response provided in paragraph (c) regarding the first year cost also applies as for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): .

Expenditures (+/-):

Other explanation: No additional expenditures are necessary to implement this amendment.